

REMARKS

Claims 1-18 are pending in this application.

By this Amendment, claims 1, 15 and 16 are amended to include subject matter found in claim 5. Claim 5 is correspondingly amended to delete duplicative features. Claim 14 is amended to cure an informality. Thus, no new matter is added by this Amendment.

I. Information Disclosure Statements

Applicants filed Information Disclosure Statements on November 13, 2003, January 26, 2005 and May 4, 2005. However, Applicants have not yet received the initialed Form PTO-1449 for each of these Information Disclosure Statements (IDSs) indicating that the cited references have been considered by the Patent Office. As a courtesy to the Examiner, Applicants attach copies of the Forms PTO-1449 for each of the above-identified IDSs and request the Examiner to initial each cited reference as having been considered and to return the initialed forms to Applicants.

II. Allowable Subject Matter

The Office Action indicates that claim 5 would be allowable if rewritten in independent form. Applicants have amended claim 1 to include subject matter from claim 5. In particular, Applicants amended claim 1 to further recite that at least part of the container body is thin walled and more flexibly elastic than the rest of the container body, such that, with the toothpaste container removed from the handle part, toothpaste can be squeezed out of the toothpaste container. Applicants submit that claim 1 is allowable.

Claims 15 and 16 have also been amended to include the same subject matter from claim 5. Thus, claims 15 and 16 are also allowable for the same reasons as claim 1.

III. §102(b) Rejection

Claims 1-3, 6, 9, 12 and 14-16 were rejected under 35 U.S.C. §102(b) over U.S. Patent No. 5,911,532 (Evancic). This rejection is respectfully traversed.

Evancic discloses a toothbrush comprising a toothpaste container and a brush portion having a head with bristles and an annular flange, wherein the brush portion is releasably connected to a toothpaste container by engagement of the annular flange with a lip projecting from the toothpaste container. The toothpaste container has a rigid container body, which is under pressure or relies on a piston-technique or plunger-technique to advance toothpaste from the container. Evancic further discloses that the rigid toothpaste container may be substituted by a conventional squeezable toothpaste tube.

In contrast to the toothbrush according to Evancic, claims 1, 15 and 16 of the present application recite that the surface of the handle essentially maintains its form when subjected to loading that occurs during teeth cleaning, irrespective of the filling level of the toothpaste container. Claims 1, 15 and 16 further recite that at least part of the container body is thin walled and more flexibly elastic than the rest of the container body such that toothpaste can be squeezed out of the container body.

Evancic discloses a toothbrush having a rigid toothpaste container (under pressure). However, Evancic fails to disclose a thin walled, more flexibly elastic part of the container body, as recited by claims 1, 15 and 16.

Regarding the alternative embodiment according to Evancic in which a conventional squeezable toothpaste tube may be substituted for the rigid toothpaste container, the form stability feature of the present claims is incontrovertibly not disclosed by Evancic because a conventional squeezable toothpaste tube does not maintain its shape irrespective of the filling level of the toothpaste tube when subjected to loading.

Furthermore, in none of the disclosed embodiments of Evancic does a handle part partially enclose the toothpaste container in the sense of the present application. In fact, Evancic teaches that the annular flange of the brush portion has to snap-fit the lip that projects

outward beyond the effective toothpaste container. In other words, only the projecting lip is enclosed by the handle part and not the toothpaste container.

Since none of the embodiments disclosed by Evancic have all features of claims 1, 15 and 16, or the claims dependent therefrom, Evancic does not anticipate the claims.

Withdrawal of the rejection is thus respectfully requested.

IV. Rejections Under 35 U.S.C. §103(a)

Claim 13 was rejected under 35 U.S.C. §103(a) over Evancic; claim 4 was rejected under 35 U.S.C. §103(a) over Evancic in view of U.S. Patent No. 1,701,030 (Collins); claims 7, 8 and 10 were rejected under 35 U.S.C. §103(a) over Evancic in view of U.S. Patent No. 2,450,002 (Jackson); and claims 11, 17 and 18 were rejected under 35 U.S.C. §103(a) over Evancic in view of U.S. Patent No. 5,382,106 (Voigt). These rejections are respectfully traversed.

Each of claims 4, 7, 8, 10, 11, 13, 17 and 18 depend directly from, or indirectly from, claim 1. Thus each of these claims is allowable for at least the same reason as claim 1 discussed above.

Withdrawal of the rejections is thus respectfully requested.

V. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the pending claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachments:

Petition for One-Month Extension of Time
Copies of Forms PTO-1449 filed November 13, 2003, January 26, 2005 and
May 4, 2005

Date: June 7, 2005

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